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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,866	07/22/2003	Patrick J. Fitzgibbons	L0562.70046US00	7654

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EXAMINER	
HAGEMAN, MARK	
ART UNIT	**PAPER NUMBER**
3653	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/624,866	FITZGIBBONS ET AL.	
	Examiner	Art Unit	
	Mark Hageman	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In light of an interview that took place 3-16-2007, a summary of which is included with this office action, the finality of the previous office action is hereby withdrawn. Upon further review of the claims the examiner is of the position that the Morikawa reference still reads on the claims as set forth in the previous office action. Therefore this action is made FINAL. Examiner agrees with the applicant regarding the interpretation of the reference discussed during the interview but maintains that Morikawa anticipates the claims. See the response to arguments section of this office action for a discussion of the interpretation of the claims, and Examiner's response to applicant's remarks.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Morikawa. The reference discloses a method for sorting a plurality of items, to each of which a sequence number is assigned (col. 6, lines 7+), into a predetermined sorted sequence using a plurality of sorting regions (210, 230, 302, 303, 300), including for each sort, at least two initial sorting regions (210, 230), and at least two additional sorting regions (302, 303, 300), at least

one of the additional sorting regions functioning as a return region, the items being initially located, in an unsorted order, in the at least one initial sorting region, the method comprising the acts of: sorting the items in each of the at least two initial sorting regions into an intermediary sorted set by moving at least some of the items at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions; and sorting the items within each intermediary sorted set by moving at least some of the items to the return region in substantially the predetermined sorted sequence (col. 5, lines 25+).

3. With regards to claim 2, the reference further discloses using a computer to track the location of each of the plurality of items (col. 5, lines 25+).

4. With regards to claim 3, the reference further discloses the items are sorted in a single pass (col. 5, lines 25+). Examiner contends that items are sorted to some extent in a single pass, even though the sort is not complete. The claim does not require, for example, a sort to a CWS in a single pass.

5. With regards to claim 4, the reference further discloses conveying items from at least one of the return regions serially and in the predetermined sorted sequence (col. 5, lines 10+).

6. With regards to claim 5, the reference further discloses placing an identifier with each of the plurality of items (col. 6, lines 6+).

7. With regards to claim 6, the reference further discloses checking the identifier to ensure that the order of the items substantially matches the predetermined sorted sequence (col. 6, lines 6+).

8. With regards to claim 7, the reference further discloses the items are positioned linearly in the sorting regions (col. 5, lines 25+).

9. With regards to claim 8, the reference inherently discloses a computer is used to control the movement and positioning of the items according to a predetermined algorithm.

10. With regards to claim 9, the reference further discloses an apparatus for sorting a plurality of postal bins comprising: a plurality of sorting regions, wherein the plurality of sorting regions comprise for each sorting at least one initial region in which the postal bins are initially located in an unsorted order, at least one return region in which postal bins are located after completion of sorting and at least one additional region used in the sorting; a first mechanism for physically moving at least one postal bin between at least two selected sorting regions; a second mechanism for physically moving at least one item between positions within each sorting region; an postal bin location tracking mechanism; and a controls operative for controlling the first and second mechanisms to move the postal bins into a predetermined sorted sequence at least partly in response to the tracking mechanism (col. 5, lines 25+).

11. With regards to claim 10, the reference further discloses at least some of the sorting regions are located one under another and wherein the first mechanism includes an elevator (510, 520)

12. With regards to claim 11, the reference further discloses the second mechanism is a conveyor (410, 490).

13. With regards to claim 12, the reference further inherently discloses the controls include a processor running a subroutine for issuing instructions according to a selected item sorting algorithm.

14. With regards to claim 15, the reference further discloses a plurality of sorting regions, wherein the plurality of sorting regions comprise for each sorting at least one initial region in

which the postal bins are initially located in an unsorted order, at least one return region in which postal bins are located after completion of sorting and at least one additional region used in the sorting, means for physically moving at least one postal bin between at least two selected sorting regions of the plurality of sorting regions; means for physically moving at least one postal bin between positions within each of the plurality of sorting regions; means for tracking the location of postal bins (col. 6, lines 6+); and means operative at least partly in response the tracking mechanism for controlling the first and second mechanisms to reposition postal bins into a predetermined sorted sequence (col. 5, lines 25+).

Response to Arguments

15. Applicant's arguments filed 3-22-2007 have been fully considered but they are not persuasive. Applicant stated that Morikawa does not disclose or suggest "sorting the items in each of the at least two initial sorting regions into an intermediary sorted set by moving at least some of the items in at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions." In an interview with the applicant and in applicant's remarks it appears the applicant is arguing that because all items in a given tray storage area (300) are from one sorter stacker unit that Morikawa can not anticipate claim 1. Examiner disagrees with this position as there is nothing in claim 1 that requires items from more than one initial sorting region to end up in a single additional sorting region, i.e. nothing in claim requires the mixing of items from the different initial sorting regions. Claim 1 merely states, "sorting the items in each of the at least two initial sorting regions into an intermediary sorted set by moving at least some of the items in at least one of the initial sorting

regions between the at least one initial sorting region and at least two of the additional sorting regions.' Examiner contends that the intermediary sorted set is all the tray storage areas (300) associated with all the sorter stacker units as there is no requirement in the claim of the mixing of items from different initial sorting regions, therefore the tray storage units as a whole constitute an intermediary sorted set. Examiner contends that "the items in at least one of the initial sorting regions are moved between the at least one initial sorting region and at least two of the additional sorting regions" in that there are multiple regions (302, 303 etc.) in tray storage area (300) and items from an initial sorting region will reside in more than one region of tray storage area (300). Therefore while Morikawa does not show items from multiple initial sorting regions intermixed in a single tray storage area it still anticipates claim 1, as no such intermixing is required by the claim.

Regarding claims 9 and 15 the applicant stated that Morikawa moves trays filled with sorted mail and thus does not disclose "a first mechanism for physically moving at least one postal bin between at least two selected sorting regions." Examiner maintains that Morikawa does disclose a first mechanism for physically moving at least one postal bin between at least two selected sorting regions in that "the bin contain trays which, when filled with sorted mail, are moved to tray storage areas," as stated by applicant. As stated above items from an initial sorting region spend time in different regions of tray storage area (300) and therefore Morikawa discloses the claimed limitation. Examiner maintains that the trays disclosed in Morikawa can be considered bins as there is no structure claimed that would distinguish the applicant's bins over the trays of Morikawa. Once again in regards to claims 9 and 15 Examiner maintains that

there is nothing in the claims that requires intermixing of items from more than one initial sorting region.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Hageman whose telephone number is (571) 272-3027. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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